

DEPARTMENT OF HUMAN SERVICES FAMILY INVESTMENT ADMINISTRATION	TEMPORARY DISABILITY ASSISTANCE PROGRAM MANUAL	
APPEALS & HEARINGS	SECTION 800	COMAR 07.03.05.14

800.1 Requirements

- A. The adverse action notice sent to an applicant or recipient contains information on how to request a fair hearing.
- B. The individual has the right to request a fair hearing on any adverse decision made on an application, or on an active case.
- C. The request for affair hearing can be made:
 - 1. To any employee of the local department whose job assignment requires public contact;
 - 2. In writing or orally.

800.2 Procedures

- A. Fair Hearing Procedures are available in the Fair Hearings Guide on FIPnet under Manuals
- B. The local department:
 - 1. Provides the customer with a Request for Hearing, (DHS/FIA 334) form;
 - 2. Assists the applicant or recipient with completion of the form;
 - 3. Ensures that the form has been properly completed, dated, and signed;
 - 4. Advises the applicant or recipient of any legal services available;
 - 5. Advises the recipient who appeals within 10 days of the adverse action notice of the right to have benefits continue, through the certification period, pending the appeal decision. (This does not apply to an applicant);
 - 6. Faxes the completed DHS/FIA 334 form to the Office of Administrative Hearings (OAH) immediately;
 - 7. Submits a summary of the facts regarding the appeal to OAH and the customer at least 6 days before the scheduled hearing date; and
 - 8. Attends the hearing to represent the local department and:
 - a) Explain how the grant or allotment was calculated and
 - b) State which program policies were used.
- B. The applicant or customer has the right to a pre-hearing agency conference prior to the scheduled date of the appeal hearing.
 - 1. The purpose of the conference is to resolve the issue before the scheduled hearing by providing the customer with:
 - a) An explanation of and a reason for the intended action,

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- b) An opportunity to speak on his/her own behalf (they may be represented by a friend or legal person), to ask questions, and to present information that shows the local department's action is incorrect, and
 - c) An opportunity to informally resolve the dispute and eliminate the need for the fair hearing.
 - 2. A pre-hearing conference does not preclude a hearing.
- C. If the pre-hearing agency conference ends favorably, ask the customer to sign a withdrawal of the request for appeal, and give them a copy.
 - 1. Retain a copy for the local department case record and send the original copy to OAH.
 - 2. OAH acknowledges receipt of the withdrawal in writing to the local department and to the applicant or customer.
 - 3. If the customer does not sign the withdrawal, you must move forward with the hearing.
- D. Upon receipt of an appeal request, OAH:
 - 1. Assigns an Administrative Law Judge (ALJ) to hear the appeal,
 - 2. Schedules the hearing
 - 3. Has the ALJ hear and record the proceedings, and upon conclusion,
 - 4. Has the ALJ review all evidence and testimony and make a decision in accordance with applicable law,
 - 5. Sends the local department a copy of the decision, and
 - 6. Sends the parties involved a copy of the decision and information on how to file an appeal in the circuit court if they disagree with the final decision.
- E. If the OAH decision is favorable to the local department, the local department:
 - 1. Takes immediate actions to implement the decision, reducing or terminating the case and
 - 2. Makes a referral for an overpayment if appropriate.
- F. If the decision is favorable to the applicant or customer, the local department:
 - 1. Complies with the decision within 10 calendar days of the decision date,
 - 2. Issues benefits to correct an underpayment, if applicable (restoring benefits for no more than 12 months), and
 - 3. Notifies OAH, immediately, that all required actions have been completed.